

**UNITED STATES COURT OF APPEALS**

**DEC 6 1999**

**TENTH CIRCUIT**

**PATRICK FISHER**  
Clerk

RICHARD WALTER JOHNSON,

Plaintiff - Appellant,

v.

RICHARD WESTFALL; ROY  
ROMER; ADELE ANDERSON;  
STEVEN PELICAN; EARNEST  
RUYBALID; PETER WARREN  
BOOTH; MARLENE LANDFIELD,

Defendants - Appellees.

No. 99-1210  
(D. Ct. No. 99-N-498)  
(D. Colo.)

**ORDER AND JUDGMENT \***

Before **TACHA** , **McKAY** , and **MURPHY** , Circuit Judges.

After examining the briefs and the appellate record, this three-judge panel has determined unanimously that oral argument would not be of material assistance in the determination of this appeal. See Fed. R. App. P. 34(a)(2)(C); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument.

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\*This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. This court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

Plaintiff, an inmate at the Colorado State Penitentiary, has filed various self-styled documents with this court. We are obliged to construe pro se pleadings liberally, Haines v. Kerner, 404 U.S. 519, 520-21 (1971) (per curiam), and therefore treat his filings as a motion for leave to proceed on appeal in forma pauperis.<sup>1</sup>

In ruling on such a motion, this court must “dismiss the case at any time if the court determines that . . . the action or appeal . . . fails to state a claim on which relief may be granted.” 28 U.S.C. § 1915(e)(2). Plaintiff invokes various legal terms in his filings but does not set out any factual predicate to support his use of these terms. Pro se status “does not relieve the plaintiff of the burden of alleging sufficient facts on which a recognized legal claim could be based.” Hall v. Bellmon, 935 F.2d 1106, 1110 (10th Cir. 1991). The magistrate judge has twice ordered plaintiff to submit a complaint that meets the pleading requirements of Rule (8)(a). Even on a liberal construction of the filings before us, we cannot discern a claim upon which relief can be granted. We therefore deny the motion

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<sup>1</sup> On May 18, 1999, the district court entered an order and judgment dismissing this action for plaintiff’s failure to comply with the pleading requirements of Fed. R. Civ. P. 8(a). Plaintiff filed no notice of appeal from this final judgment. However, on May 20, plaintiff filed this motion to proceed on appeal in forma pauperis. A motion to appeal in forma pauperis can confer appellate jurisdiction upon this court. Hoover v. United States, 268 F.2d 787, 789 (10th Cir. 1959). See also Knox v. Wyoming, 959 F.2d 866, 868 n.1 (10th Cir. 1992) (restating the rule from Hoover). We therefore exercise jurisdiction over the matter.

to proceed in forma pauperis and AFFIRM the district court's dismissal of the matter.

ENTERED FOR THE COURT,

Deanell Reece Tacha  
Circuit Judge